

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

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A.S., BY HER NEXT FRIEND  
AND MOTHER, JANIELE REID,  
and, JANIELE REID, individually,

PLAINTIFFS,

v.

Case No: 2:19-cv-02056-JTF  
JURY DEMANDED

SHELBY COUNTY BOARD OF EDUCATION,  
and, GREG MCCULLOUGH,  
in his individual and official capacities,

DEFENDANTS.

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**JOINT MOTION TO AMEND SCHEDULING ORDER AND  
MEMORANDUM OF LAW IN SUPPORT THEREOF**

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COME NOW the Plaintiffs, A.S. and Janiele Reid, and the Defendants, Shelby County Board of Education and Greg McCullough (collectively the “Parties”), and move this Court, pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), to amend the Scheduling Order, (Dkt. No. 17.), and extend the discovery, expert witness, and Mediation/ADR deadline. In support thereof, the Parties would state as follows:

**FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiffs initiated this disability discrimination and retaliation case by the filing of their Complaint on January 22, 2019. (Dkt. No. 1.) As relevant to this Motion, the Scheduling Order currently provides numerous deadlines for discovery, expert designations and, as particularly relevant, Mediation/ADR. (Dkt. No. 17). The Mediation/ADR deadline is August 16, 2019. This matter is not currently set for trial.

The Parties have agreed upon a mediator, and they will retain the services of Judge

Robert Childers (Hereinafter “Mediator”) in this matter. Despite the Parties’ diligent efforts, they have been unable to get a mediation scheduled where all Parties, and the Mediator, can be in attendance at the same time. Most recently, the Parties have exchanged all available dates from early September through the end of October. The Parties still believe that a good faith mediation can take place, and accordingly request a ninety (90) day extension of time on all remaining deadlines to allow for a mediation to take place.

### **LEGAL ARGUMENT**

Federal Rule of Civil Procedure 16(b)(4) provides “[a] schedule may be modified only for good cause and with the judge’s consent.” *See also* Fed. R. Civ. P. 6(b)(1)(A) (allowing a court to extend time to act for good cause); Scheduling Order, Doc. 48, at p.4 (“Absent good cause shown, the deadlines set by this order will not be modified or extended.”). The primary consideration in determining if good cause exists is the moving party’s diligence in meeting the deadlines. *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002) (citations omitted). Also relevant is whether an opposing party will be prejudiced by the amendment. *Id.*

Here, the Parties have been diligent in meeting deadlines in this case by conducting discovery and preparing for mediation. The Parties have been continuously exchanging dates for a prospective mediation for the last six (6) weeks. Most recently, the Parties have exchanged all available dates from early September through the end of October. However, due to trials, depositions and the availability of the Mediator, the Parties have been unable to confirm and schedule a date for mediation. As this Motion is a joint motion, there is no prejudice to any “opposing party.” At the time, the Parties still believe that a good faith mediation can take place, and respectfully request a ninety (90) day extension of time on all remaining deadlines to allow for a mediation to take place. This is the Parties first request to modify the scheduling order. A

proposed scheduling order will be submitted separately to the Court for consideration.

### CONCLUSION

For the foregoing reasons, Plaintiffs and Defendants submit there is good cause to amend the Scheduling Order, and respectfully request this Court GRANT this Joint Motion.

Respectfully submitted this 16<sup>th</sup> day of August, 2019.

Respectfully submitted,

BLACK MCLAREN JONES RYLAND  
& GRIFFEE  
A Professional Corporation

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**CERTIFICATE OF SERVICE**

A true and correct copy of the above and foregoing document has been served upon all counsel of record in this cause electronically through the Court's ECF filing system, on this the 16<sup>th</sup> day of August, 2019.

/s/ Christopher M. Williams